

REFERENCE TITLE: school board meetings; quorum

State of Arizona  
Senate  
Forty-ninth Legislature  
First Regular Session  
2009

## **SB 1396**

Introduced by  
Senators Huppenthal: Allen S, Gray L, Melvin

AN ACT

AMENDING SECTIONS 15-183, 15-302 AND 15-321, ARIZONA REVISED STATUTES;  
RELATING TO SCHOOL DISTRICTS AND CHARTER SCHOOLS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 15-183, Arizona Revised Statutes, is amended to  
3 read:

4 15-183. Charter schools; application; requirements; immunity;  
5 exemptions; renewal of application; reprisal

6 A. An applicant seeking to establish a charter school shall submit a  
7 written application to a proposed sponsor as prescribed in subsection C of  
8 this section. The application shall include a detailed business plan for the  
9 charter school and may include a mission statement for the charter school, a  
10 description of the charter school's organizational structure and the  
11 governing body, a financial plan for the first three years of operation of  
12 the charter school, a description of the charter school's hiring policy, the  
13 name of the charter school's applicant or applicants and requested sponsor, a  
14 description of the charter school's facility and the location of the school,  
15 a description of the grades being served and an outline of criteria designed  
16 to measure the effectiveness of the school.

17 B. The sponsor of a charter school may contract with a public body,  
18 private person or private organization for the purpose of establishing a  
19 charter school pursuant to this article.

20 C. The sponsor of a charter school may be either a school district  
21 governing board, the state board of education or the state board for charter  
22 schools, subject to the following requirements:

23 1. For charter schools that submit an application for sponsorship to a  
24 school district governing board:

25 (a) An applicant for a charter school may submit its application to a  
26 school district governing board, which shall either accept or reject  
27 sponsorship of the charter school within ninety days. An applicant may  
28 submit a revised application for reconsideration by the governing board. If  
29 the governing board rejects the application, the governing board shall notify  
30 the applicant in writing of the reasons for the rejection. The applicant may  
31 request, and the governing board may provide, technical assistance to improve  
32 the application.

33 (b) In the first year that a school district is determined to be out  
34 of compliance with the uniform system of financial records, within fifteen  
35 days of the determination of noncompliance, the school district shall notify  
36 by certified mail each charter school sponsored by the school district that  
37 the school district is out of compliance with the uniform system of financial  
38 records. The notification shall include a statement that if the school  
39 district is determined to be out of compliance for a second consecutive year,  
40 the charter school will be required to transfer sponsorship to another entity  
41 pursuant to subdivision (c) of this paragraph.

42 (c) In the second consecutive year that a school district is  
43 determined to be out of compliance with the uniform system of financial  
44 records, within fifteen days of the determination of noncompliance, the  
45 school district shall notify by certified mail each charter school sponsored

1 by the school district that the school district is out of compliance with the  
2 uniform system of financial records. A charter school that receives a  
3 notification of school district noncompliance pursuant to this subdivision  
4 shall file a written sponsorship transfer application within forty-five days  
5 with the state board of education, the state board for charter schools or the  
6 school district governing board if the charter school is located within the  
7 geographic boundaries of that school district. A charter school that  
8 receives a notification of school district noncompliance may request an  
9 extension of time to file a sponsorship transfer application, and the state  
10 board of education, the state board for charter schools or a school district  
11 governing board may grant an extension of not more than an additional thirty  
12 days if good cause exists for the extension. The state board of education  
13 and the state board for charter schools shall approve a sponsorship transfer  
14 application pursuant to this paragraph.

15 (d) ~~Beginning July 1, 2000,~~ A school district governing board shall  
16 not grant a charter to a charter school that is located outside the  
17 geographic boundaries of that school district.

18 (e) A school district that has been determined to be out of compliance  
19 with the uniform system of financial records during either of the previous  
20 two fiscal years shall not sponsor a new or transferring charter school.

21 2. The applicant may submit the application to the state board of  
22 education or the state board for charter schools. The state board of  
23 education or the state board for charter schools may approve the application  
24 if the application meets the requirements of this article and may approve the  
25 charter if the proposed sponsor determines, within its sole discretion, that  
26 the applicant is sufficiently qualified to operate a charter school. The  
27 state board of education or the state board for charter schools may approve  
28 any charter schools transferring charters. The state board of education and  
29 the state board for charter schools shall approve any charter schools  
30 transferring charters from a school district that is determined to be out of  
31 compliance with the uniform system of financial records pursuant to this  
32 section, but may require the charter school to sign a new charter that is  
33 equivalent to the charter awarded by the former sponsor. If the state board  
34 of education or the state board for charter schools rejects the preliminary  
35 application, the state board of education or the state board for charter  
36 schools shall notify the applicant in writing of the reasons for the  
37 rejection and of suggestions for improving the application. An applicant may  
38 submit a revised application for reconsideration by the state board of  
39 education or the state board for charter schools. The applicant may request,  
40 and the state board of education or the state board for charter schools may  
41 provide, technical assistance to improve the application.

42 3. Each applicant seeking to establish a charter school shall submit a  
43 full set of fingerprints to the approving agency for the purpose of obtaining  
44 a state and federal criminal records check pursuant to section 41-1750 and  
45 Public Law 92-544. If an applicant will have direct contact with students,

1 the applicant shall possess a valid fingerprint clearance card that is issued  
2 pursuant to title 41, chapter 12, article 3.1. The department of public  
3 safety may exchange this fingerprint data with the federal bureau of  
4 investigation. The criminal records check shall be completed before the  
5 issuance of a charter.

6 4. All persons engaged in instructional work directly as a classroom,  
7 laboratory or other teacher or indirectly as a supervisory teacher, speech  
8 therapist or principal shall have a valid fingerprint clearance card that is  
9 issued pursuant to title 41, chapter 12, article 3.1, unless the person is a  
10 volunteer or guest speaker who is accompanied in the classroom by a person  
11 with a valid fingerprint clearance card. A charter school shall not employ a  
12 teacher whose certificate has been revoked for a violation of section 15-507  
13 or 15-550 or for any offense that placed a pupil in danger. All other  
14 personnel shall be fingerprint checked pursuant to section 15-512. Before  
15 employment, the charter school shall make documented, good faith efforts to  
16 contact previous employers of a person to obtain information and  
17 recommendations that may be relevant to a person's fitness for employment as  
18 prescribed in section 15-512, subsection F. The charter school shall notify  
19 the department of public safety if the charter school or sponsor receives  
20 credible evidence that a person who possesses a valid fingerprint clearance  
21 card is arrested for or is charged with an offense listed in section  
22 41-1758.03, subsection B. Charter schools may hire personnel that have not  
23 yet received a fingerprint clearance card if proof is provided of the  
24 submission of an application to the department of public safety for a  
25 fingerprint clearance card and if the charter school that is seeking to hire  
26 the applicant does all of the following:

27 (a) Documents in the applicant's file the necessity for hiring and  
28 placement of the applicant before receiving a fingerprint clearance card.

29 (b) Ensures that the department of public safety completes a statewide  
30 criminal records check on the applicant. A statewide criminal records check  
31 shall be completed by the department of public safety every one hundred  
32 twenty days until the date that the fingerprint check is completed.

33 (c) Obtains references from the applicant's current employer and the  
34 two most recent previous employers except for applicants who have been  
35 employed for at least five years by the applicant's most recent employer.

36 (d) Provides general supervision of the applicant until the date that  
37 the fingerprint card is obtained.

38 (e) Completes a search of criminal records in all local jurisdictions  
39 outside of this state in which the applicant has lived in the previous five  
40 years.

41 (f) Verifies the fingerprint status of the applicant with the  
42 department of public safety.

43 5. If a charter school operator is not already subject to a public  
44 meeting or hearing by the municipality in which the charter school is  
45 located, the operator of a charter school shall conduct a public meeting at

1 least thirty days before the charter school operator opens a site or sites  
2 for the charter school. The charter school operator shall post notices of  
3 the public meeting in at least three different locations that are within  
4 three hundred feet of the proposed charter school site.

5 6. A person who is employed by a charter school or who is an applicant  
6 for employment with a charter school, who is arrested for or charged with a  
7 nonappealable offense listed in section 41-1758.03, subsection B and who does  
8 not immediately report the arrest or charge to the person's supervisor or  
9 potential employer is guilty of unprofessional conduct and the person shall  
10 be immediately dismissed from employment with the charter school or  
11 immediately excluded from potential employment with the charter school.

12 7. A person who is employed by a charter school and who is convicted  
13 of any nonappealable offense listed in section 41-1758.03, subsection B or is  
14 convicted of any nonappealable offense that amounts to unprofessional conduct  
15 under section 15-550 shall immediately do all of the following:

16 (a) Surrender any certificates issued by the department of education.

17 (b) Notify the person's employer or potential employer of the  
18 conviction.

19 (c) Notify the department of public safety of the conviction.

20 (d) Surrender the person's fingerprint clearance card.

21 D. A board that is authorized to sponsor charter schools pursuant to  
22 this article has no legal authority over or responsibility for a charter  
23 school sponsored by a different board. This subsection does not apply to the  
24 state board of education's duty to exercise general supervision over the  
25 public school system pursuant to section 15-203, subsection A, paragraph 1.

26 E. The charter of a charter school shall ensure the following:

27 1. Compliance with federal, state and local rules, regulations and  
28 statutes relating to health, safety, civil rights and insurance. The  
29 department of education shall publish a list of relevant rules, regulations  
30 and statutes to notify charter schools of their responsibilities under this  
31 paragraph.

32 2. That it is nonsectarian in its programs, admission policies and  
33 employment practices and all other operations.

34 3. That it provides a comprehensive program of instruction for at  
35 least a kindergarten program or any grade between grades one and twelve,  
36 except that a school may offer this curriculum with an emphasis on a specific  
37 learning philosophy or style or certain subject areas such as mathematics,  
38 science, fine arts, performance arts or foreign language.

39 4. That it designs a method to measure pupil progress toward the pupil  
40 outcomes adopted by the state board of education pursuant to section  
41 15-741.01, including participation in the Arizona instrument to measure  
42 standards test and the nationally standardized norm-referenced achievement  
43 test as designated by the state board and the completion and distribution of  
44 an annual report card as prescribed in chapter 7, article 3 of this title.

1           5. That, except as provided in this article and in its charter, it is  
2 exempt from all statutes and rules relating to schools, governing boards and  
3 school districts.

4           6. That, except as provided in this article, it is subject to the same  
5 financial and electronic data submission requirements as a school district,  
6 including the uniform system of financial records as prescribed in chapter 2,  
7 article 4 of this title, procurement rules as prescribed in section 15-213  
8 and audit requirements. The auditor general shall conduct a comprehensive  
9 review and revision of the uniform system of financial records to ensure that  
10 the provisions of the uniform system of financial records that relate to  
11 charter schools are in accordance with commonly accepted accounting  
12 principles used by private business. A school's charter may include  
13 exceptions to the requirements of this paragraph that are necessary as  
14 determined by the district governing board, the state board of education or  
15 the state board for charter schools. The department of education or the  
16 office of the auditor general may conduct financial, program or compliance  
17 audits.

18           7. Compliance with all federal and state laws relating to the  
19 education of children with disabilities in the same manner as a school  
20 district.

21           8. That it provides for a governing body for the charter school that  
22 is responsible for the policy decisions of the charter school.  
23 NOTWITHSTANDING SECTION 1-216, IF THERE IS A VACANCY OR VACANCIES ON THE  
24 GOVERNING BODY, A MAJORITY OF THE REMAINING MEMBERS OF THE GOVERNING BODY  
25 CONSTITUTE A QUORUM FOR THE TRANSACTION OF BUSINESS.

26           9. That it provides a minimum of one hundred seventy-five  
27 instructional days before June 30 of each fiscal year unless it is operating  
28 on an alternative calendar approved by its sponsor. The superintendent of  
29 public instruction shall adjust the apportionment schedule accordingly to  
30 accommodate a charter school utilizing an alternative calendar.

31           F. The charter of a charter school shall include a description of the  
32 charter school's personnel policies, personnel qualifications and method of  
33 school governance and the specific role and duties of the sponsor of the  
34 charter school. A charter school shall keep on file the resumes of all  
35 current and former employees who provide instruction to pupils at the charter  
36 school. Resumes shall include an individual's educational and teaching  
37 background and experience in a particular academic content subject area. A  
38 charter school shall inform parents and guardians of the availability of the  
39 resume information and shall make the resume information available for  
40 inspection on request of parents and guardians of pupils enrolled at the  
41 charter school. Nothing in this subsection shall be construed to require any  
42 charter school to release personally identifiable information in relation to  
43 any teacher or employee, including the teacher's or employee's address,  
44 salary, social security number or telephone number.

1           G. The charter of a charter school may be amended at the request of  
2 the governing body of the charter school and on the approval of the sponsor.

3           H. Charter schools may contract, sue and be sued.

4           I. An approved plan to establish a charter school is effective for  
5 fifteen years from the first day of operation. At least eighteen months  
6 before the expiration of the approved plan, the sponsor shall notify the  
7 charter school that the charter school may apply for renewal. A charter  
8 school that elects to apply for renewal shall file an application for renewal  
9 at least fifteen months before the expiration of the approved plan. In  
10 addition to any other requirements, the application for renewal shall include  
11 a detailed business plan for the charter school. The sponsor may deny the  
12 request for renewal if, in its judgment, the charter school has failed to  
13 complete the obligations of the contract or has failed to comply with this  
14 article. A sponsor shall give written notice of its intent not to renew the  
15 charter school's request for renewal to the charter school at least twelve  
16 months before the expiration of the approved plan to allow the charter school  
17 an opportunity to apply to another sponsor to transfer the operation of the  
18 charter school. If the operation of the charter school is transferred to  
19 another sponsor, the fifteen year period of the current charter shall be  
20 maintained. A sponsor shall review a charter at five year intervals and may  
21 revoke a charter at any time if the charter school breaches one or more  
22 provisions of its charter. At least ninety days before the effective date of  
23 the proposed revocation the sponsor shall give written notice to the operator  
24 of the charter school of its intent to revoke the charter. Notice of the  
25 sponsor's intent to revoke the charter shall be delivered personally to the  
26 operator of the charter school or sent by certified mail, return receipt  
27 requested, to the address of the charter school. The notice shall  
28 incorporate a statement of reasons for the proposed revocation of the  
29 charter. The sponsor shall allow the charter school at least ninety days to  
30 correct the problems associated with the reasons for the proposed revocation  
31 of the charter. The final determination of whether to revoke the charter  
32 shall be made at a public hearing called for such purpose.

33           J. After renewal of the charter at the end of the fifteen year period  
34 described in subsection I of this section, the charter may be renewed for  
35 successive periods of fifteen years if the charter school and its sponsor  
36 deem that the school is in compliance with its own charter and this article.

37           K. A charter school that is sponsored by the state board of education  
38 or the state board for charter schools may not be located on the property of  
39 a school district unless the district governing board grants this authority.

40           L. A governing board or a school district employee who has control  
41 over personnel actions shall not take unlawful reprisal against another  
42 employee of the school district because the employee is directly or  
43 indirectly involved in an application to establish a charter school. A  
44 governing board or a school district employee shall not take unlawful  
45 reprisal against an educational program of the school or the school district

because an application to establish a charter school proposes the conversion of all or a portion of the educational program to a charter school. For the purposes of this subsection, "unlawful reprisal" means an action that is taken by a governing board or a school district employee as a direct result of a lawful application to establish a charter school and that is adverse to another employee or an education program and:

1. With respect to a school district employee, results in one or more of the following:

- (a) Disciplinary or corrective action.
- (b) Detail, transfer or reassignment.
- (c) Suspension, demotion or dismissal.
- (d) An unfavorable performance evaluation.
- (e) A reduction in pay, benefits or awards.
- (f) Elimination of the employee's position without a reduction in force by reason of lack of monies or work.
- (g) Other significant changes in duties or responsibilities that are inconsistent with the employee's salary or employment classification.

2. With respect to an educational program, results in one or more of the following:

- (a) Suspension or termination of the program.
- (b) Transfer or reassignment of the program to a less favorable department.
- (c) Relocation of the program to a less favorable site within the school or school district.
- (d) Significant reduction or termination of funding for the program.

M. Charter schools shall secure insurance for liability and property loss. The governing body of a charter school that is sponsored by the state board of education or the state board for charter schools may enter into an intergovernmental agreement or otherwise contract to participate in an insurance program offered by a risk retention pool established pursuant to section 11-952.01 or 41-621.01 or the charter school may secure its own insurance coverage. The pool may charge the requesting charter school reasonable fees for any services it performs in connection with the insurance program.

N. Charter schools do not have the authority to acquire property by eminent domain.

O. A sponsor, including members, officers and employees of the sponsor, is immune from personal liability for all acts done and actions taken in good faith within the scope of its authority.

P. Charter school sponsors and this state are not liable for the debts or financial obligations of a charter school or persons who operate charter schools.

Q. The sponsor of a charter school shall establish procedures to conduct administrative hearings on determination by the sponsor that grounds exist to revoke a charter. Procedures for administrative hearings shall be



1 similar to procedures prescribed for adjudicative proceedings in title 41,  
2 chapter 6, article 10. Except as provided in section 41-1092.08, subsection  
3 H, final decisions of the state board of education and the state board for  
4 charter schools from hearings conducted pursuant to this subsection are  
5 subject to judicial review pursuant to title 12, chapter 7, article 6.

6 R. The sponsoring entity of a charter school shall have oversight and  
7 administrative responsibility for the charter schools that it sponsors.

8 S. Charter schools may pledge, assign or encumber their assets to be  
9 used as collateral for loans or extensions of credit.

10 T. All property accumulated by a charter school shall remain the  
11 property of the charter school.

12 U. Charter schools may not locate a school on property that is less  
13 than one-fourth mile from agricultural land regulated pursuant to section  
14 3-365, except that the owner of the agricultural land may agree to comply  
15 with the buffer zone requirements of section 3-365. If the owner agrees in  
16 writing to comply with the buffer zone requirements and records the agreement  
17 in the office of the county recorder as a restrictive covenant running with  
18 the title to the land, the charter school may locate a school within the  
19 affected buffer zone. The agreement may include any stipulations regarding  
20 the charter school, including conditions for future expansion of the school  
21 and changes in the operational status of the school that will result in a  
22 breach of the agreement.

23 V. A transfer of a charter to another sponsor, a transfer of a charter  
24 school site to another sponsor or a transfer of a charter school site to a  
25 different charter shall be completed before the beginning of the fiscal year  
26 that the transfer is scheduled to become effective. An entity that sponsors  
27 charter schools may accept a transferring school after the beginning of the  
28 fiscal year if the transfer is approved by the superintendent of public  
29 instruction. The superintendent of public instruction shall have the  
30 discretion to consider each transfer during the fiscal year on a case by case  
31 basis. If a charter school is sponsored by a school district that is  
32 determined to be out of compliance with this title, the uniform system of  
33 financial records or any other state or federal law, the charter school may  
34 transfer to another sponsoring entity at any time during the fiscal year.

35 W. The sponsoring entity may not charge any fees to a charter school  
36 that it sponsors unless the sponsor has provided services to the charter  
37 school and the fees represent the full value of those services provided by  
38 the sponsor. On request, the value of the services provided by the sponsor  
39 to the charter school shall be demonstrated to the department of education.

40 Sec. 2. Section 15-302, Arizona Revised Statutes, is amended to read:

41 15-302. Powers and duties

42 A. The county school superintendent shall:

43 1. Distribute all laws, reports, circulars, instructions and forms  
44 ~~which~~ THAT he may receive for the use of school officers.

45 2. Record all official acts.

3. Appoint governing board members of school districts to fill all vacancies, but the term of the appointment shall be until the next regular election for governing board members, at which time a successor shall be elected to serve the unexpired portion of the term. **WITHIN THIRTY DAYS AFTER NOTIFICATION OF A VACANCY, THE SCHOOL DISTRICT GOVERNING BOARD MAY SUBMIT UP TO THREE NAMES TO THE COUNTY SCHOOL SUPERINTENDENT FOR CONSIDERATION OF AN APPOINTMENT TO FILL THE VACANCY. THE COUNTY SCHOOL SUPERINTENDENT IS NOT REQUIRED TO APPOINT A GOVERNING BOARD MEMBER FROM THE LIST OF NAMES SUBMITTED BY THE GOVERNING BOARD.** The county school superintendent ~~may~~, if he deems it in the best interest of the community, **MAY** call a special election to fill the vacancies. If an election is called, the newly elected member shall serve for the remainder of the unexpired portion of the term.

4. Make reports, when directed by the superintendent of public instruction, showing matters relating to schools in his county as may be required on the forms furnished by the superintendent of public instruction.

5. Have such powers and perform such duties as otherwise prescribed by law.

6. On or before October 1 of each year, make a report to the superintendent of public instruction showing the amount of monies received from state school funds, special school district taxes and other sources, the total expenditures for school purposes and the balance on hand to the credit of each school district at the close of the school year.

7. Contract with the board of supervisors for the board of supervisors to conduct all regular school district elections.

8. Be responsible, in cooperation with the governing boards and the board of supervisors, for all special school district elections.

9. Maintain teacher and administrator certification records of effective dates and expiration dates of teachers' and administrators' certificates in compliance with guidelines prescribed in the uniform system of financial records for those school districts for which the county school superintendent is the fiscal agent. The county school superintendent shall not draw a warrant in payment of a teacher's, substitute teacher's or administrator's salary unless the teacher, substitute teacher or administrator is legally certified during the fiscal year in which the term for payment is demanded.

10. Notify a school district three years before the expiration of a revenue control limit override that the school district's budget must be adjusted in the final two years of the override pursuant to section 15-481, subsections P and Q, if the voters do not approve another override.

11. In collaboration with the department of education and other state agencies, provide assistance to school districts and charter schools on the use of student data, staff development, curriculum alignment and technology to improve student performance.

12. Assist schools in meeting yearly adequate progress goals as defined by criteria established by the state board of education and implemented by the department of education.

B. At the request of school districts and charter schools, the county school superintendent may provide discretionary programs in addition to the programs prescribed in subsection A **OF THIS SECTION**.

C. The county school superintendent may provide the services prescribed in subsections A and B **OF THIS SECTION** in the county or jointly with two or more counties pursuant to title 11, chapter 7, article 3.

D. Each county school superintendent may establish an advisory committee to the office of the county school superintendent.

Sec. 3. Section 15-321, Arizona Revised Statutes, is amended to read:

**15-321. Organization; election of officers of the board; meetings; execution of warrants; exemption**

A. For the purpose of organization of the governing board, the board shall meet at the most convenient public facility in the school district. If a public facility is not available within the district, the governing board may meet at any available public facility that is convenient to all governing board members, regardless of the county or school district in which the facility is located. The governing board shall meet between January 1 and January 15 next following the election.

B. At the organization meeting the governing board shall elect from among the membership of the board a president.

C. For the purposes of regular meetings of the governing board, the board shall meet at the most convenient public facility in the school district. If a public facility is not available within the district, the governing board may meet at any available public facility that is convenient to all governing board members, regardless of the county or school district in which the facility is located.

D. The board shall prescribe rules for its own government. It shall hold a regular meeting at least once each month during the regular school year and may hold other meetings as often as called. If action has been taken and documents approved at a meeting, they may be signed subsequently by individual board members.

E. Business shall be conducted at regular or special meetings. Notice of a special meeting, and of the hour for a regular meeting if no hour is fixed by a rule of the board, shall be delivered personally or by telephone.

~~F. A majority of the members of a governing board constitutes a quorum for the transaction of business.~~

**F. NOTWITHSTANDING SECTION 1-216, IF THERE IS A VACANCY OR VACANCIES ON THE GOVERNING BOARD, A MAJORITY OF THE REMAINING MEMBERS OF THE GOVERNING BOARD CONSTITUTE A QUORUM FOR THE TRANSACTION OF BUSINESS, EXCEPT THAT A SINGLE MEMBER OF THE GOVERNING BOARD DOES NOT CONSTITUTE A QUORUM.**

1           G. An order on a county school superintendent for a salary or other  
2 expense shall be signed by ~~a majority of~~ the governing board. An order for  
3 salary or other expense may be signed between board meetings if a resolution  
4 to that effect has been passed prior to the signing at a regular or special  
5 meeting of the governing board and the order is ratified by the board at the  
6 next regular or special meeting of the governing board.  
7           H. This section does not apply to county school superintendents in the  
8 conduct of an accommodation school.